



House of Representatives

File No. 819

General Assembly

January Session, 2007

(Reprint of File No. 278)

Substitute House Bill No. 5234
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 11, 2007

**AN ACT CONCERNING THE BANNING OF PESTICIDES ON SCHOOL
GROUNDS AND THE ENFORCEMENT AUTHORITY OF THE
DEPARTMENT OF ENVIRONMENTAL PROTECTION.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 10-231b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) No person, other than a pesticide applicator with supervisory
4 certification under section 22a-54 or a pesticide applicator with
5 operational certification under section 22a-54 under the direct
6 supervision of a supervisory pesticide applicator, may apply pesticide
7 within any building or on the grounds of any school, other than a
8 regional vocational agriculture center. This section shall not apply in
9 the case of an emergency application of pesticide to eliminate an
10 immediate threat to human health where it is impractical to obtain the
11 services of any such applicator provided such emergency application
12 does not involve a restricted use pesticide, as defined in section 22a-47.

13 (b) No person shall apply a lawn care pesticide on the grounds of

14 any public or private preschool or public or private [elementary]
15 school with students in grade eight or lower, except that (1) on and
16 after January 1, 2006, until July 1, [2008] 2009, an application of a lawn
17 care pesticide may be made at a public or private [elementary] school
18 with students in grade eight or lower on the playing fields and
19 playgrounds of such school pursuant to an integrated pest
20 management plan, which plan (A) shall be consistent with the model
21 pest control management plan developed by the Commissioner of
22 Environmental Protection pursuant to section 22a-66l, and (B) may be
23 developed by a local or regional board of education for all public
24 schools under its control, and (2) an emergency application of a lawn
25 care pesticide may be made to eliminate a threat to human health, as
26 determined by the local health director, the Commissioner of Public
27 Health, the Commissioner of Environmental Protection or, in the case
28 of a public [elementary] school, the school superintendent.

29 Sec. 2. Subsection (a) of section 22a-59 of the general statutes is
30 repealed and the following is substituted in lieu thereof (*Effective*
31 *October 1, 2007*):

32 (a) For purposes of enforcing the provisions of this chapter, sections
33 10-231b, as amended by this act, 10-231c, 10-231d, subsection (a) of
34 section 23-61a and sections 23-61b and 23-61f, officers or employees
35 duly designated by the commissioner are authorized to enter at
36 reasonable times, any establishment or other place where pesticides or
37 devices are being or have been used, or where pesticides or devices are
38 held for use, distribution or sale in order to: (1) Observe the application
39 of pesticides; (2) determine if the applicator is or should be certified;
40 (3) determine if the applicator has obtained a proper permit to apply
41 restricted use pesticides; (4) inspect equipment or devices used to
42 apply pesticides; (5) inspect or investigate the validity of damage
43 claims; (6) inspect or obtain samples in any place where pesticides or
44 devices have been used or are held for use, storage, distribution or
45 sale; (7) obtain samples of any pesticides or devices packaged, labeled
46 and released for shipment and samples of any containers or labeling
47 for such pesticides or devices, and (8) obtain samples of any pesticides

48 or devices that have been used and obtain samples of any containers or
49 labeling for such pesticides or devices. Before undertaking such
50 inspection, the officers or employees shall present to the owner,
51 operator, or agent in charge of the establishment or other place where
52 pesticides or devices are held for distribution or sale, appropriate
53 credentials and a written statement as to the reason for the inspection,
54 including a statement as to whether a violation of the law is suspected.
55 If no violation is suspected, an alternate and sufficient reason shall be
56 given in writing. Each such inspection shall be commenced and
57 completed with reasonable promptness. If the officer or employee
58 obtains any samples, prior to leaving the premises, he shall give to the
59 owner, operator, or agent in charge a receipt describing the samples
60 obtained and, if requested, a portion of each such sample equal in
61 volume or weight to the portion retained. If an analysis is made of
62 such samples, the laboratories of the Connecticut Agricultural
63 Experiment Station may be used and a copy of the results of such
64 analysis shall be furnished promptly to the owner, operator, or agents
65 in charge and the commissioner.

66 Sec. 3. Subsection (b) of section 22a-61 of the general statutes is
67 repealed and the following is substituted in lieu thereof (*Effective*
68 *October 1, 2007*):

69 (b) It shall be unlawful for any person:

70 (1) To detach, alter, deface, or destroy, in whole or in part, any
71 labeling required under FIFRA;

72 (2) To refuse to keep any records required pursuant to section 22a-
73 58, or to refuse to allow the inspection of any records or establishment
74 pursuant to sections 22a-58 and 22a-59, or to refuse to allow an officer
75 or employee of the Department of Environmental Protection to take a
76 sample of any pesticide pursuant to section 22a-59;

77 (3) To give a guaranty or undertaking provided for in subsection (c)
78 of this section which is false in any particular, except that a person who
79 receives and relies upon a guaranty authorized under subsection (c) of

80 this section may give a guaranty to the same effect, which guaranty
81 shall contain, in addition to that person's own name and address, the
82 name and address of the person residing in the United States from
83 whom the guaranty or undertaking was received;

84 (4) To use for his own advantage or to reveal, other than to the
85 commissioner or officials or employees of the Department of
86 Environmental Protection or other federal or state executive agencies,
87 or to the courts, or to physicians, pharmacists and other qualified
88 persons, needing such information for the performance of their duties,
89 in accordance with such directions as the commissioner may prescribe,
90 any information acquired by authority of this part which is
91 confidential under this part;

92 (5) Who is a registrant, wholesaler, dealer, retailer or other
93 distributor to advertise a product registered under this part for
94 restricted use without giving the classification of the product assigned
95 to it under section 22a-50;

96 (6) To make available for use, or to use, any registered pesticide
97 classified for restricted use or permit use for some or all purposes other
98 than in accordance with section 22a-50 and any regulations adopted
99 thereunder;

100 (7) To use any registered pesticide in a manner inconsistent with
101 restrictions prescribed under this part, subsection (a) of section 23-61a,
102 section 23-61b or inconsistent with labeling;

103 (8) To use any pesticide which is under an experimental use permit
104 contrary to the provisions of the permit;

105 (9) To violate any order issued under section 22a-62;

106 (10) To violate any suspension order issued pursuant to this part;

107 (11) To violate any cancellation of registration of a pesticide;

108 (12) To violate any provision of section 22a-56 or any regulation

109 established pursuant to this part;

110 (13) To violate any provision of section 10-231b, as amended by this
111 act, 10-231c, 10-231d or 22a-57;

112 (14) To knowingly falsify all or part of any application for
113 registration, application for experimental use permit, any records
114 required to be maintained pursuant to section 22a-58, any report filed
115 under this part, or any information marked as confidential and
116 submitted to the commissioner under any provision of this part;

117 (15) Who is a registrant, wholesaler, dealer, retailer or other
118 distributor to fail to file reports required by this part;

119 (16) To use any pesticide in tests on human beings unless such
120 human beings (i) are fully informed of the nature and purposes of the
121 test and of any physical and mental health consequences which are
122 reasonably foreseeable, therefrom, and (ii) freely volunteer to
123 participate in the test.

124 Sec. 4. Section 22a-63 of the general statutes is repealed and the
125 following is substituted in lieu thereof (*Effective October 1, 2007*):

126 (a) Any registrant, commercial applicator, uncertified person who
127 performs or advertises or solicits to perform commercial application,
128 wholesaler, dealer, retailer or other distributor who knowingly violates
129 any provision of this chapter, section 10-231b, as amended by this act,
130 10-231c, 10-231d, subsection (a) of section 23-61a or section 23-61b,
131 shall be fined not more than five thousand dollars, or imprisoned for
132 not more than one year or both.

133 (b) Any private applicator or other person, not included in
134 subsection (a), who knowingly violates any provision of this chapter,
135 section 10-231b, as amended by this act, 10-231c, 10-231d, subsection
136 (a) of section 23-61a or section 23-61b, shall be fined not more than one
137 thousand dollars, or imprisoned for not more than thirty days or both.

138 (c) Any person who, with intent to defraud, uses or reveals

139 information relative to formulas of products acquired under the
140 authority of this chapter, shall be fined not more than ten thousand
141 dollars, or imprisoned for not more than one year or both.

142 (d) When construing and enforcing the provisions of this chapter,
143 sections 10-231b, as amended by this act, 10-231c, 10-231d, subsection
144 (a) of section 23-61a and sections 23-61b and 23-61f, the action,
145 omission or failure to act of any officer, agent or other person acting
146 for or employed by any person shall in every case be also deemed to be
147 the action, omission or failure to act of such person as well as that of
148 the person employed.

149 (e) Any person who violates any provision of this chapter, section
150 10-231b, as amended by this act, 10-231c or 10-231d, may be assessed a
151 civil penalty of not more than two thousand five hundred dollars per
152 day for each day such violation continues. The Attorney General, upon
153 complaint of the commissioner, shall institute a civil action to recover
154 such penalty in the superior court for the judicial district of Hartford.
155 All actions brought by the Attorney General shall have precedence in
156 the order of trial as provided in section 52-191.

157 (f) Any person who is not certified as a commercial applicator who
158 performs or advertises or solicits to perform commercial application of
159 a pesticide, or any person possessing an operational certificate for
160 commercial application under section 22a-54 who performs or
161 advertises or solicits to perform any activity requiring a supervisory
162 certificate for commercial application shall be assessed a civil penalty
163 in an amount not less than one thousand dollars or more than two
164 thousand dollars for each day such violation continues. For any
165 subsequent violation, such penalty shall be not more than five
166 thousand dollars. The Attorney General, upon complaint of the
167 commissioner, may institute a civil action to recover such penalty in
168 the superior court for the judicial district of Hartford. Any penalties
169 collected under this subsection shall be deposited in the
170 Environmental Quality Fund established under section 22a-27g and
171 shall be used by the commissioner to carry out the purposes of this

172 section.

173 Sec. 5. Section 22a-66l of the general statutes is repealed and the
174 following is substituted in lieu thereof (*Effective October 1, 2007*):

175 (a) Each state department, agency or institution shall use integrated
176 pest management at facilities under its control if the Commissioner of
177 Environmental Protection has provided model pest control
178 management plans pertinent to such facilities.

179 (b) Each state agency or school which enters into a contract for
180 services for pest control and pesticide application may revise and
181 maintain its bidding procedures to require contractors to supply
182 integrated pest management services.

183 (c) The Commissioner of Environmental Protection shall annually
184 review a sampling of state department, agency, school or institution
185 pest control management plans required by regulations adopted under
186 subsection (e) of this section or section 10-231b, as amended by this act,
187 and may review any application of pesticides to determine whether a
188 state department, agency, school or institution acted in accordance
189 with subsection (a) of this section.

190 (d) The Commissioner of Environmental Protection may provide
191 model pest control management plans which incorporate integrated
192 pest management for each appropriate category of commercial
193 pesticide certification which it offers. The commissioner shall, within
194 available resources, notify municipalities, school boards, and other
195 political subdivisions of the state of the availability of the model plans
196 for their use. The Commissioner of Environmental Protection shall
197 consult with any state agency head in the development of any such
198 plan for properties in the custody or control of such agency head.

199 (e) The Commissioner of Environmental Protection, in consultation
200 with the Commissioner of Public Health, shall adopt regulations, in
201 accordance with the provisions of chapter 54, establishing
202 requirements for the application of pesticides by any state department,

203 agency or institution. Such regulation shall include provisions for
204 integrated pest management methods to reduce the amount of
205 pesticides used. Notwithstanding the provisions of this section and
206 any regulations adopted under this section, a pesticide may be applied
207 if the Commissioner of Public Health determines there is a public
208 health emergency or the Commissioner of Environmental Protection
209 determines that such application is necessary for control of
210 mosquitoes.

211 (f) The Commissioner of Environmental Protection shall develop
212 and implement a program to inform the public of the principles of
213 integrated pest management and to encourage its application in
214 private properties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	10-231b
Sec. 2	<i>October 1, 2007</i>	22a-59(a)
Sec. 3	<i>October 1, 2007</i>	22a-61(b)
Sec. 4	<i>October 1, 2007</i>	22a-63
Sec. 5	<i>October 1, 2007</i>	22a-66l

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Environmental Protection	GF - Cost	See Below	See Below
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	None	See Below	See Below

Explanation

This bill will increase the enforcement activities of the Department of Environmental Protection (DEP) concerning pesticides. Additionally the bill would increase the review of pest control management plans required of the DEP. It is anticipated that to undertake the additional workload the department would require 1 to 2 additional analysts at a full year cost of \$55,000 to \$110,000 plus fringe benefits.¹

Any revenue gain from fines imposed under the bill would be minimal.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

It is anticipated that local and regional school districts can meet the requirements of the bill with currently available resources.

House "A" added the requirements concerning the DEP's enforcement responsibilities and resulted in the impact to the DEP as stated above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5234 (as amended by House "A")******AN ACT BANNING PESTICIDE USE ON SCHOOL GROUNDS.*****SUMMARY:**

This bill

1. expands a ban on applying lawn care pesticides to school playing fields and playgrounds to schools with students through grade eight;
2. extends, for one year, an exemption for pesticides applied on these grounds according to certain integrated pest management plans (IPMs);
3. expands a school superintendent's ability to authorize emergency applications of lawn care pesticides in health emergencies to any public school, apparently with students through grade eight, instead of just a public elementary school; and
4. makes the Department of Environmental Protection (DEP) responsible for administering and enforcing school pesticide applications.

*House Amendment "A" adds the provisions placing the application of pesticides at school under DEP control and supervision.

EFFECTIVE DATE: October 1, 2007

APPLICATION OF LAWN CARE PESTICIDES***Integrated Pest Management Plans***

Current law bars anyone from applying a lawn care pesticide on the

grounds of public and private preschools and elementary schools, except that pesticides can be applied until July 1, 2008 on their playing fields and playgrounds according to an integrated pest management plan (IPM). The bill expands the ban to public and private schools with students through grade eight and extends the IPM exemption for one year, to July 1, 2009. The IPM plan may be developed by a local or regional school board for public schools it controls and must be consistent with DEP's model pest control management plan.

Emergency Applications

Regardless of the ban, current law allows emergency applications of lawn care pesticides on public and private preschool and elementary school grounds to eliminate a threat to human health, as determined by the local health director, public health or environmental protection commissioner, or school superintendent in the case of a public elementary school. The bill extends a school superintendent's authority to determine a health threat to any public school, apparently with students through grade eight.

DEP ADMINISTRATION AND ENFORCEMENT

The bill gives DEP the authority, under the Connecticut Pesticide Control Act (CGS § 22a-46 et seq.), to administer and enforce the laws concerning school pesticide applications. These laws include registration, notice, and record-keeping provisions, in addition to the provisions concerning the applications themselves. The bill makes it unlawful to violate the school pesticide statutes and applies Pesticide Control Act penalties to violators, as follows.

1. Any registrant, commercial applicator, uncertified person who performs or advertises or solicits to perform commercial application, wholesaler, dealer, retailer, or other distributor who knowingly violates the law may be fined up to \$5,000, imprisoned for up to one year, or both.
2. A private applicator or other person, not included in the above categories, who knowingly violates the law may be fined up to

\$1,000, jailed for up to 30 days, or both.

In addition, under the bill, the action, omission, or failure to act of any officer, agent, or other person acting for or working for any person is deemed to be the action, omission, or failure to act of the employer as well as the employee.

The bill also authorizes the attorney general, on the complaint of the DEP commissioner, to seek a civil penalty in Hartford Superior Court against violators of up to \$2,500 per day for each day a violation continues.

DEP Review of Pesticide Applications

By law, state agencies, departments, and institutions must use IPM at facilities they control if the DEP commissioner has provided a model IPM plan pertaining to those facilities. The law allows each agency, department, or institution that enters into a contract for pest control and pesticide application to revise and maintain its bidding procedures to require contractors to supply IPM services.

The bill allows schools to revise and maintain their bidding procedures to require contractors to supply IPM services. It authorizes DEP to (1) annually review a sampling of school pest control management plans and (2) review any school pesticide application to determine if it used IPM as the law requires.

BACKGROUND

Integrated Pest Management

IPM means the use of all available pest control techniques, including judicious use of pesticides, when warranted, to maintain a pest population at or below an acceptable level, while decreasing the unnecessary use of pesticides (CGS § 22a-47 (dd)).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 24 Nay 6 (03/19/2007)

Education Committee

Joint Favorable

Yea 22 Nay 1 (04/18/2007)